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SUBJECT GROUP 5800-5899 LAWS AND LEGAL MATTERS

SUBGROUP 5814 - COURT-MARTIAL REVIEWS AND APPEALS

5814.1 Review of Nonjudicial punishment appeals, Records of Trial by Summary Courts-Martial: Non-Bad Conduct Discharge (BCD) Special Courts-Martial; Post-Trial Recommendations Required by R.C.M. 1106, MCM, in BCD Special Courts-Martial: BCD Special Courts-Martial in which the accused has waived appellate review; Reports of Pretrial Investigation; and Records of Proceedings to Vacate Suspended Sentences. Commands forwarding courts-martial, pretrial investigating officer's reports, and records of proceedings to vacate suspended sentences to COMNAVREG MIDLANT for review and appropriate action will comply with applicable provisions of the Manual for Courts-Martial and JAGMAN.

a. Regional coordinators are responsible for review of legal proceedings as defined in CINCLANTFLTINST 5400.2 Series, Chapter 2, Section 6, Article 2601.

b. Atlantic Fleet units are referred to Chapter 2, Section 6 of CINCLANTFLTINST 5400.2 series; COMNAVSURFLANTINST 5800.1 series and COMNAVAIRLANTINST 5800.5 series for policy guidance.

c. In the absence of specific direction to the contrary by an officer authorized to convene general courts-martial and superior in the chain of command to the convening authority, appeals from nonjudicial punishment will be forwarded for review to Staff Judge Advocate, Commander, Navy Region, Mid-Atlantic, Code 00L, 6506 Hampton Blvd., Norfolk, VA 23508-1273.

d. Records of review requiring review per R.C.M. 1112, MCM, shall be forwarded to the Staff Judge Advocate for the officer exercising general courts-martial jurisdiction in accordance with the provisions of JAGMAN 0153. In the absence of specific direction to the contrary by an officer authorized to convene general courts-martial and superior in the chain of command to the convening authority, records of trial of summary courts-martial and Non-BCD special courts-martial will be forwarded for review to Staff Judge Advocate, Commander, Navy Region, Mid-Atlantic, Code 00L, 6506 Hampton Blvd., Norfolk, VA 23508-1273.

e. Special Courts-Martial in which the sentence awarded by the court-martial includes a BCD. For commands other than those in the SUBLANT, SURFLANT, or AIRLANT chain of command, Staff Judge Advocate, COMNAVREG MIDLANT will review, upon request, a record of trial by special court-martial which includes a sentence to a BCD, whether or not suspended, and forward to the convening authority the post-trial recommendation required by R.C.M. 1106, MCM. Commands forwarding records of trial for preparation of the R.C.M. 1106 advice, will promptly, upon receipt of the record of trial, contact the Staff Judge

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Advocate and thereafter, whenever practicable, hand deliver the original and all copies to the Staff Judge Advocate.

f. Pretrial Investigating Officers Report. When the commanding officer recommends trial by general court-martial, forward the original report and one copy with the commanding officer's recommendation. Ensure the original Article 32 appointing order, original charge sheet and service record book are included. Be sure to serve a copy of the report on the accused. If an accused waived the pretrial investigation, ensure the original appointing order, the original command recommendation, the original charge sheet, the service record book and copies - not originals - of all reports of investigation on which charges are based are forwarded. Time is of the essence. Those commands which recommend trial by general court-martial will promptly deliver the relevant materials to Staff Judge Advocate, Commander, Navy Region, Mid-Atlantic, Code 00L, 6506 Hampton Blvd., Norfolk, VA 23508-1273. Whenever practicable, hand delivery is strongly encouraged as well as advance notice by telephone or message. See generally R.C.M. 404(e), MCM; JAGMAN 0128.

5814.2 Investigation of Incidents Involving Claims, Whether For or Against the United States: Line of Duty (LOD)/Misconduct and Death Investigations of Personnel Injured or Killed Within the COMNAVREG MIDLANT Area of Operation (AO).

a. Investigations Involving Claims. Incidents which involve potential claims, for or against the United States, shall be reported and investigated in accordance with the appropriate chapters of the JAG Manual and JAGINST 5890.1 Series. An advance copy of the investigative report on all claims other than admiralty claims shall be submitted to Naval Legal Service Office, Mid-Atlantic (NAVLEGSVCOFF MIDLANT). Every incident involving a possible admiralty claim for or against the Government requires an immediate preliminary report by rapid means to the Office of the Judge Advocate General, (Code 31) or by e-mail at admiralty@jag.navy.mil, and notification to Staff Judge Advocate, COMNAVREG MIDLANT (Code 00L) and the cognizant installation Staff Judge Advocate.

b. LOD/Misconduct and Death Investigations

(1) Policy. The provisions of Chapter II of the JAG Manual will be implemented in the case of naval personnel killed or injured within COMNAVREG MIDLANT AOR.

(2) Review. Commands forwarding death or injury investigations to COMNAVREG MIDLANT for review shall submit the original investigation, one copy for COMNAVREG MIDLANT, and a copy for each command in the chain of review. If there appears to be a claims aspect of the investigation, a copy will be forwarded to NAVLEGSVCOFF. Commands should ensure that all copies, including the enclosures, are legible.